

United States Court of Appeals For the First Circuit

No. 17-1376

LISA SIEGEL BELANGER; DEVORA C. KAISER,

Plaintiffs, Appellants,

v.

BNY MELLON, N.A.; BRIAN NAGLE, ESQ.; TARLOW, BREED, HART & RODGERS, PC;
EDWARD D. TARLOW, ESQ.; ALBERT A. DENAPOLI, ESQ.; CATHERINE WATSON,
ESQ.; MAXA BERID, ESQ.; ELDER SERVICES OF MERRIMACK VALLEY, INC.;
HVL CORP., d/b/a Whittier Pavilion; NORTHEAST HOSPITAL CORPORATION, d/b/a
Beverly Hospital; RICHARD GARY GARMIL, ESQ.,

Defendants, Appellees,

WILLIAM AUSTIN, CPA; THOMAS J. BARBAR; BERID & SCHUTZ BANK, LLC; BURNS
& LEVINSON, LLP; DR. PETER W. COHEN; COMMONWEALTH OF MASSACHUSETTS;
WALTER COSTELLO, JR.; BRIAN T. CUFFE; DR. PING CUI; LISA CUKIER; SCOTT
DAILEY; JAMES FELD; DR. JANICE FUNK; DR. KAI HAYES; MARSHA VERON
KAZAROSIAN; KAZAROSIAN, COSTELLO & O'DONNELL LLP; KENNEY
ENTERPRISES; ROBERT LEDOUX; MERRIMACK VALLEY HOSPITAL; CHERI
MYETTE; MICHAEL NOVACK; PIERCE & MANDELL, PC; DR. ROBERT PORTNEY;
DIANE POWELL; MARY ANN REMILLARD; BRANDON H. SAUNDERS, ESQ.; ALAN
SIDMAN; SHERYL SIDMAN; MICHAEL SPRINGMAN; LAURA R. STUDEN;
BRENDA WOJICK,

Defendants.

Before

Howard, Chief Judge,
Lynch and Thompson, Circuit Judges.

JUDGMENT

Entered: March 7, 2018

Appellants Lisa Siegel Belanger and Devora C. Kaiser appeal from the district court's dismissal of their complaint on timeliness and Rule 12(b)(6) grounds, and from the district court's decision not to exercise supplemental jurisdiction over the remaining state law claims. For substantially the reasons adopted by the district court, we conclude that the district court's finding of untimeliness was correct and that, in any event, appellants failed with the operative complaint to state a plausible cognizable claim for which relief might be granted against any of the named defendants. Appellants' claims, therefore, were properly dismissed. See Ashcroft v. Iqbal, 556 U.S. 662, 677-78 (2009) (explaining that, in order to survive Rule 12(b)(6) review, a claim must be "plausible on its face"); Guadalupe-Baez v. Pesquera, 819 F.3d 509, 514 (1st Cir. 2016) (standard of review); Perez-Sanchez v. Pub. Bldg. Auth., 531 F.3d 104, 107 (1st Cir. 2008) ("It has long been established that a claim under § 1985(3) requires some racial, or perhaps otherwise class-based, invidiously discriminatory animus behind the conspirators' action."); Soto v. Flores, 103 F.3d 1056, 1061 (1st Cir. 1997) (elements of § 1983 claim). Furthermore, the district court did not abuse its discretion in declining to exercise supplemental jurisdiction over the state law claims. See Allstate Interiors & Exteriors, Inc. v. Stonestreet Const., LLC, 730 F.3d 67, 72 (1st Cir. 2013) (standard of review).

Because there is no "substantial question" as to the propriety of the district court's dismissal, appellees' motion for summary disposition is granted, and the judgment of the district court is affirmed. See 1st Cir. R. 27.0(c). Appellants' request for sanctions is denied.

By the Court:

/s/ Margaret Carter, Clerk

cc: Lisa Siegel Belanger, Mark Christopher Fleming, David J. Volkin, Janine Marie Lopez, Scott Douglas Burke, Colin T. Barrett, Terrance J. Hamilton, Matthew T. Murphy, Stephen C. Pfaff, Jeffrey Kiesling, Robert L. Ciociola, Tamar Hagopian, Alexandra R. Hassell, Christine Alexandra Abowitz, John Douglas Bruce, Richard Gary Garmil, Jeffrey Robert Martin, George A. Berman, Michael Robert Brown, Daniel Roger Deutsch, John C. Foskett, Stephen Joseph Duggan, John W. Chamberlain, Jr., Richard L. Nahigian, William F. Sinnott, Leonard M. Davidson, Andrea Peraner-Sweet, Matthew R. Connors, Keith S. Halpern, Joseph Patrick Lucia